

## **SECTION 15B. TOWERS.\***

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\*Editor's note: Ord. No. O-00-24, § 3, adopted May 15, 2000, repealed section 15B, subsections 15B.1--15B.11, in its entirety and replaced it with a new section 15B, subsections 15B.1--15B.9. Former section 15B pertained to similar material and derived from Ord. No. O-99-04, § 5, adopted Jan. 19, 1999; and Ord. No. O-00-16, § 6, adopted April 3, 2000.

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### **15B.1. General.**

- A. Definitions. As used in this section, the following term shall have the meanings ascribed to it as set forth below:

Height, when referring to a tower, antennae or other structure, means the distance measured vertically from the highest point excluding a lightning rod(s) when positioned for operation to the lowest point at the bottom of the base of the structure being measured at either roof or normal finished grade, whichever is applicable. The height of a tower shall include the height of any antennae positioned for operation attached to the tower.

- B. Applicability and conflicts. This section is in addition to and not in lieu of section 15 hereof pertaining to specific use permits. This section applies to all commercial and amateur tower and antennae installations, and to land in any zoning district. The procedures of this section relating to the application, processing, and determination of whether to grant a specific use permit as specified herein, are in addition to any other provisions and requirements contained in other applicable sections of the city zoning ordinance, the city's building regulations and other applicable requirements set forth in this Code. Any regulations relating to the height of a tower, alternate tower structure, or antennae as contained in this section, shall control over any conflicting provision of these zoning regulations not contained in this section.

(Ord. No. O-00-24, § 3, 5-15-2000)

### **15B.2. Specific use permit required.**

- A. Except as provided elsewhere in this section 15B, no tower or antennae shall be erected without first receiving approval of a specific use permit.
- B. The effects of radio frequency emissions on persons or the environment shall not be a factor in granting or denying an application for a specific use permit for a tower or antennae.

C. Application Procedures. Application for a specific use permit for a tower or use of an alternative tower structure or other structure on which the construction or mounting of an antennae is desired shall be made to the planning department of the city. An application will not be considered until it is complete. A complete application must contain the following:

- (1) An inventory of the applicant's existing towers that are either within the city or within one mile of the border thereof, including specific information about the location, height, service area and design of each tower. The city may share the information with other applicants applying for administrative approvals or specific use permits under this section or other organizations seeking to locate antennae within the city; provided, however, that the city is not, by sharing the information, in any way representing or warranting that the sites are available or suitable.
- (2) Site plan or plans to scale specifying the location of the proposed tower(s), transmission building and other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses.
- (3) A description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs, and traffic, noise and safety impacts of the maintenance.
- (4) Report from a professional structural engineer licensed in the State of Texas documenting the following:
  - (a) Tower height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design. A cross section of the tower structure shall be included.
  - (b) Total anticipated capacity of the structure, including the number and types of antennae, which can be accommodated.
  - (c) Evidence of the structural integrity of the tower structure.
  - (d) Collapse characteristics of the tower and evidence that site and setbacks are of adequate size to contain a total or partial structural collapse of the tower within the site.
- (5) A letter stating applicant's willingness to accommodate and allow collocation of other providers on the tower, if structurally and technically possible.
- (6) Each applicant must make a good faith effort to substantially demonstrate that no existing or planned tower can accommodate the applicant's proposed antennae or transmitter as follows:
  - (a) The applicant shall contact the owners of all existing or planned towers within the search area that are of a height roughly equal to or greater than the height of the tower proposed by the applicant. A list of all owners contacted, the date of contact, and the form and content of the contact shall be provided.
  - (b) The contact shall be made in a timely manner, that is, sufficiently before the filing of an application for a building or specific use permit. Where an existing or planned tower is known to have

capacity for additional antennae of the sort proposed, that application for a new tower shall not be complete until the owner of the existing or planned tower responds, unless the applicant submits sufficient information for the city to determine that all reasonable efforts to obtain a response have been made and further efforts would be futile.

- (c) The applicant shall request the following from each owner contacted:
  - 1. Identification of the site by location, existing uses, and tower height.
  - 2. A statement whether each tower could structurally accommodate the antennae proposed by the applicant without requiring structural changes to be made to the tower. To enable the owner to respond, the applicant shall provide each owner with the height, length, width, and other relevant data about the proposed antennae.
  - 3. A statement whether each tower could structurally accommodate the proposed antennae if structural changes were made, short of rebuilding the tower. If so, the owner shall specify in general terms what structural changes would be required.
  - 4. A determination as to whether shared use of the existing tower, if structurally able, would be precluded for reasons related to technical problems verified in writing from the FCC.
- (d) The city shall maintain and provide, on request, records of responses from each owner. Once an owner demonstrates an antennae of the sort proposed by the applicant cannot be accommodated on the owner's tower as described below, the owner need not be contacted by future applicants for antennae of the sort proposed.
- (e) Shared use is not precluded simply because a reasonable fee for shared use is charged, or because of reasonable costs necessary to adapt the existing and proposed use to a shared tower. Costs exceeding new tower development are presumed unreasonable.
- (7) Any other information which may be requested by the city to fully evaluate and review the application and the potential impact of a proposed tower or antennae. The city may require site sections for the purposes of evaluation and review. The city may utilize the services of experts in the evaluation of applications for tower and or antennae location, the cost of which shall be borne by the applicant.

(Ord. No. O-00-24, § 3, 5-15-2000)

### **15B.3. Specific use permit not required.**

- A. Except as otherwise provided in this section, a person may not construct, erect, or maintain a tower or antennae within the city without first receiving a specific use permit.
- (1) Amateur radio tower or antennae. An amateur radio tower or antennae owned and operated by a federally licensed amateur radio station operator may be installed without obtaining a specific use permit if:
- (a) The height of such tower or antennae shall not exceed 35 feet as measured from the highest point excluding any lightening rod(s) when positioned for operation to normal finished grade;
  - (b) If mounted on a residential structure, the amateur radio tower or antennae is completely concealed by eaves, gutters, or roofing, and has a maximum height equal to or less than the height of the residence;
  - (c) The towers, support structure, antennae or support wires are located to the rear of the principal building;
  - (d) The base of any such amateur radio tower or ground-mounted antennae support structure is screened from adjoining properties, and is not within view of streets;
  - (e) Only one amateur radio tower or antennae is erected on the lot;
  - (f) The tower or antennae does not contain advertising or a sign;
  - (g) The tower or antennae does not contain illumination; and
  - (h) Application for a building permit is submitted and approved.
- (2) Nonresidential Buildings.
- (a) A rooftop-mounted tower and antennae or rooftop-mounted antennae alone may be located on any non-residential building or alternative tower structures and may be located anywhere in the city without obtaining a specific use permit, if:
    - 1. The nonresidential structure, excluding the height of the tower and antennae or the height of the antenna alone, exceeds 50 feet in height;
    - 2. The tower and antennae or the antenna alone will add no more than 20 feet total to the height of the existing structure;
    - 3. The tower or antennae or the antenna alone blend or otherwise complement the nonresidential structure;
    - 4. The tower or antennae or the antenna alone does not contain advertising or a sign;

5. The tower or antennae or the antenna alone complies with the lighting regulations for towers as specified in this section; and
  6. Application for a building permit is submitted and approved.
- (b) Support buildings or structures, including platforms, required in association with a rooftop-mounted tower or antenna or antenna alone not requiring a specific use permit shall be permitted if all of the following conditions are met:
1. Each support building or structures does not exceed ten feet in overall height, with its base or footing installed at ground level.
  2. Support buildings or structures, individually or together, except as provided herein, shall be enclosed within fencing, which completely screens such buildings or structures from adjoining uses. Such fencing shall be a minimum of six feet in height. The following standards shall also apply:
    - a. In the event that such a site is located either within or adjacent to a nonresidential district, and within view of a public roadway, such fencing shall be masonry and comply with standards contained in Section 7A, architectural Design Standards, as applicable, and shall match the color approved for any principal building;
    - b. In the event that such a site is located either within or adjacent to a residential district, and within view of a public roadway, such fencing shall consist of community fencing that would be approved for the closest residential subdivision in accordance with Section 14.3; or
    - c. In the event that the site is not located within view of a public roadway, such fencing shall constructed of wooden or masonry materials.
  3. Setbacks for each support building or structure shall be determined by the City's building and fire codes.

4. All buffer yards, required for nonresidential uses pursuant to Section 11.4, are installed and maintained with applicable plant installations on the exterior of the site's fencing.

(Ord. No. O-00-24, § 3, 5-15-2000; O-04-08; 03-15-04; Ord. No. O-08-41, § 15B.3, 07-21-08).

#### **15B.4. General requirement and regulations for towers and antennae.**

- A. Those towers and antennae requiring a specific use permit. The following regulations shall apply to towers or antennae for which a specific use permit is required under this section 15B:
  - (1) No new communication tower site may be established until evidence is provided that efforts have been made to co-locate on existing technically suitable alternatives within the search area of the new site. For the purpose of this section 15B, the search area is defined as the grid for the placement of the antennae.
  - (2) All towers, antennae and supporting structures shall be concealed or disguised. The design of such towers, antennae and supporting structures shall make use of textures, colors, materials, landscaping and screening so as to blend with its surroundings or otherwise reduce its obtrusiveness relative to its environment. Additional measures must be taken with respect to the base of a freestanding tower to diminish public view of same.
- B. Requirements for all towers and antennae. The following requirements shall apply for all towers and antennae located within the city:
  - (1) No illumination shall be placed on an antennae or a tower unless required by the FCC, FAA or other state or federal agency of competent jurisdiction.
  - (2) Free-standing towers shall be limited to monopole designs where technically possible.
  - (3) Towers shall not be constructed taller than necessary to accomplish the purpose of applicant and this ordinance.
  - (4) Sounds emanating from the tower site related to its operation and maintenance shall not, to the extent technically possible, be audible at the boundary of adjacent property.
  - (5) Accessory structures used in direct support of a tower or antenna shall be allowed but may not be used for offices, vehicle storage or other outdoor storage. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the tower or antenna, unless such equipment is being used to make repairs to the tower.
  - (6) Towers may be located on sites containing another principal use in the same buildable area. With the exception of amateur radio towers, towers

shall occupy a parcel meeting the minimum lot size requirements for the zoning district in which it is located.

- (7) Joint use of a site is prohibited when a proposed or existing principal use includes the storage, distribution or sale of volatile, flammable, explosive or hazardous materials, such as, but not limited to, propane, natural gas and dangerous chemicals.
- (8) Placement of more than one tower on a non-residential lot shall be permitted, provided all setback, design and landscape requirements are met as to each tower. Structures may be located as close to each other as technically feasible, provided all applicable provisions of this section and all city codes and regulations are met.
- (9) Prior to the issuance of any building permit for an antennae or tower, except for an amateur radio tower or antennae exempt from obtaining a specific use permit pursuant to section 15B.3, a letter of irrevocable credit or similar guarantee of performance shall be received by the city in an amount and form approved by the city to cover the anticipated cost of dismantling and removing the antennae or tower in the event the antennae or tower is declared to be a public nuisance.

(Ord. No. O-00-24, § 3, 5-15-2000; Ord. No. O-02-36, § 3, 7-15-2002; Ord. No. O-04-08; 03-15-04)

#### **15B.5. Shared use for all towers and antennae.**

- A. All new towers shall be designed to structurally accommodate the maximum number of additional users technically practicable.
- B. To encourage shared use of towers, a new or amended specific use permit shall not be required for the addition of antennae(s) to an existing tower so long as the height of the tower or structure on which the antennae is placed is not increased and the requirements of this section are met.
- C. A specific use permit which is granted for a new tower is specifically subject to the condition that the tower owner abide by the following provisions relating to shared use, regardless of whether or not the ordinance granting the specific use permit contains such conditions:
  - (1) The tower owner shall respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;
  - (2) The tower owner shall negotiate in good faith for shared use by third parties; and
  - (3) The tower owner shall allow shared use where the third party seeking the use agrees in writing to pay reasonable, pro rata charges for sharing, including all charges necessary to modify the tower and transmitters to accommodate shared use, but not total tower reconstruction, and to

observe whatever technical requirements are necessary to allow shared use without creating interference.

- D. The willful failure of an owner whose tower was approved under this section to comply with the requirements of this section shall be grounds for withholding approval of any application by the owner for a building permit for the approved tower, for revoking the specific use permit granted for the tower, and for refusing to approve a new specific use permit for any new tower or antennae.

(Ord. No. O-00-24, § 3, 5-15-2000)

#### **15B.6. Removal of unsafe antennae and towers.**

All towers and antennae shall be maintained in compliance with standards contained in applicable building and technical codes so as to ensure the structural integrity of the towers. If, upon inspection by the city, the tower is determined not to comply with the code standards or to constitute a danger to persons or property, then upon notice being provided to the owner of the tower and the owner of the property if the owner is different, the owners shall bring the tower into compliance. Maintenance of a tower constituting a danger to persons or to property is a public nuisance that, upon proper notice and procedure as set forth in this Code, may result in the city removing the tower and placing a lien upon the property for the costs of the removal.

(Ord. No. O-00-24, § 3, 5-15-2000)

#### **15B.7. Abandoned towers and antennae.**

Except during periods of re-licensing, major equipment failure or court ordered non-operations, any antennae or tower that is not operated for any continuous period of 12 months shall be considered abandoned and the owner of such antennae or tower and the owner of the property where the antennae or tower is located shall remove the antennae or tower. If the antennae or tower is not removed upon receipt of notice from the city notifying the owner of the property of the abandonment, the city may determine such abandoned antennae or tower to constitute a hazard to the health, safety or general welfare of the citizens of the city or the public and thus constitute a public nuisance, that may result in the removal of the antennae or tower.

(Ord. No. O-02-36, § 4, 7-15-2002)

Editor's note: Ord. No. O-02-36, § 4, adopted July 15, 2002, repealed App. A, § 15B7., in its entirety and enacted new provisions to read as herein set out. Prior to amendment § 15B7. pertained to similar subject matter and derived from Ord. No. O-00-24, § 3, adopted May 15, 2000.

#### **15B.8. Dismantling of surplus height.**

Surplus height of antennae or towers shall be dismantled no later than 60 days after the lowering of active antennae or towers. If the surplus height of an antennae or tower is not removed upon receipt of notice from the city notifying the owner of such surplus height, the city may determine



such antennae or tower to constitute a hazard to the health, safety or general welfare of the citizens of the city or the public and thus constitute a public nuisance that may result in the dismantling of the surplus height by the city.

(Ord. No. O-02-36, § 4, 7-15-2002)

Editor's note: Ord. No. O-02-36, § 4, adopted July 15, 2002, repealed App. A, § 15B8., in its entirety and enacted new provisions to read as herein set out. Prior to amendment § 15B7. pertained to similar subject matter and derived from Ord. No. O-00-24, § 3, adopted May 15, 2000.

**15B.9. Public property.**

Antennae or towers located on property owned, leased or otherwise controlled by the city shall be exempt from the requirements of this section.

(Ord. No. O-00-24, § 3, 5-15-2000)